

AMENDED IN ASSEMBLY MAY 28, 2010
AMENDED IN ASSEMBLY MARCH 16, 2010
CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1665

Introduced by Assembly Member Swanson

January 20, 2010

An act to amend Section 3543.2 of the Government Code, relating to school employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 1665, as amended, Swanson. School employees: scope of representation.

(1) Existing law gives public school employee organizations the right to represent their members in their employment relations with public school employers, and limits the scope of representation to matters relating to wages, hours of employment, and other terms and conditions of employment, as defined. Existing law provides that subjects other than those specified may not be included as part of collective bargaining.

This bill would require public school employers to give reasonable written notice ~~of not less than 15 days~~ to the exclusive representative of classified personnel of a public school employer's intent to make any change to matters within the scope of representation, including, but not necessarily limited to, start time. The bill would also require public school employers to provide a recognized employee organization with the opportunity to meet and negotiate with the public school employer. *The bill would require, in cases of emergency when the public school employer determines that a rule, policy, or procedure must be adopted immediately, that the public school employer give this notice and*

opportunity to meet and negotiate at the earliest practicable time following the adoption of the rule, policy, or procedure.

This bill would also make various nonsubstantive technical and conforming changes.

Because the bill would impose new duties on public school employers, it would constitute a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3543.2 of the Government Code is
2 amended to read:

3 3543.2. (a) (1) The scope of representation shall be limited
4 to matters relating to wages, hours of employment, and other terms
5 and conditions of employment. "Terms and conditions of
6 employment" mean health and welfare benefits as defined by
7 Section 53200, leave, transfer and reassignment policies, safety
8 conditions of employment, class size, procedures to be used for
9 the evaluation of employees, organizational security pursuant to
10 Section 3546, procedures for processing grievances pursuant to
11 Sections 3548.5, 3548.6, 3548.7, and 3548.8, and the layoff of
12 probationary certificated school district employees, pursuant to
13 Section 44959.5 of the Education Code, and alternative
14 compensation or benefits for employees adversely affected by
15 pension limitations pursuant to former Section 22316 of the
16 Education Code, as that section read on December 31, 1999, to
17 the extent deemed reasonable and without violating the intent and
18 purposes of Section 415 of the Internal Revenue Code.

19 (2) The exclusive representative of certificated personnel has
20 the right to consult on the definition of educational objectives, the
21 determination of the content of courses and curriculum, and the

1 selection of textbooks to the extent those matters are within the
2 discretion of the public school employer under the law.

3 (3) ~~The~~(A) *Except as specified in subparagraph (B), the public*
4 *school employer shall give reasonable written notice of not less*
5 *than 15 days to the exclusive representative of classified personnel*
6 *of a public school employer's intent to make any change to matters*
7 *within the scope of representation, including, but not necessarily*
8 *limited to, start time, and shall provide a recognized employee*
9 *organization with the opportunity to meet and negotiate with the*
10 *public school employer.*

11 (B) *In cases of emergency when the public school employer*
12 *determines that a rule, policy, or procedure must be adopted*
13 *immediately without prior notice or meeting with the exclusive*
14 *representative, the public school employer shall provide notice*
15 *and opportunity to meet and negotiate at the earliest practicable*
16 *time following the adoption of the rule, policy, or procedure.*

17 (4) All matters not specifically enumerated are reserved to the
18 public school employer, and may not be a subject of meeting and
19 negotiating, except that this section does not limit the right of the
20 public school employer to consult with any employees or employee
21 organization on any matter outside the scope of representation.

22 (b) Notwithstanding Section 44944 of the Education Code, the
23 public school employer and the exclusive representative shall,
24 upon request of either party, meet and negotiate regarding causes
25 and procedures for disciplinary action, other than dismissal,
26 including a suspension of pay for up to 15 days, affecting
27 certificated employees. If the public school employer and the
28 exclusive representative do not reach mutual agreement, the
29 provisions of Section 44944 of the Education Code shall apply.

30 (c) Notwithstanding Section 44955 of the Education Code, the
31 public school employer and the exclusive representative shall,
32 upon request of either party, meet and negotiate regarding
33 procedures and criteria for the layoff of certificated employees for
34 lack of funds. If the public school employer and the exclusive
35 representative do not reach mutual agreement, the provisions of
36 Section 44955 of the Education Code shall apply.

37 (d) Notwithstanding Section 45028 of the Education Code, the
38 public school employer and the exclusive representative shall,
39 upon request of either party, meet and negotiate regarding the
40 payment of additional compensation based upon criteria other than

1 years of training and years of experience. If the public school
2 employer and the exclusive representative do not reach mutual
3 agreement, the provisions of Section 45028 of the Education Code
4 shall apply.

5 (e) Pursuant to Section 45028 of the Education Code, the public
6 school employer and the exclusive representative shall, upon the
7 request of either party, meet and negotiate a salary schedule based
8 on criteria other than a uniform allowance for years of training
9 and years of experience. If the public school employer and the
10 exclusive representative do not reach mutual agreement, the
11 provisions of Section 45028 of the Education Code requiring a
12 salary schedule based upon a uniform allowance for years of
13 training and years of experience shall apply. A salary schedule
14 established pursuant to this subdivision shall not result in the
15 reduction of the salary of any teacher.

16 SEC. 2. If the Commission on State Mandates determines that
17 this act contains costs mandated by the state, reimbursement to
18 local agencies and school districts for those costs shall be made
19 pursuant to Part 7 (commencing with Section 17500) of Division
20 4 of Title 2 of the Government Code.